

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$56.15 for date of service, 05/17/01.
- b. The request was received on 03/25/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 1. HCFA-1500
 2. EOB/TWCC 62 forms/Medical Audit summary
 3. Request for reconsideration dated 12/04/01
 - b. Additional documentation requested on 06/10/02 and received on 06/24/02
 1. Position Statement
 2. Prescription dated 05/17/01
 3. Example EOBs from other Insurance Carriers
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/28/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 07/02/02. The response from the insurance carrier was received in the Division on 07/16/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 06/15/02

“The disputed issue is that the Carrier has paid \$56.15 for these products stating no MAR reduced to fair and reasonable. We resubmitted the claims to the Carrier requesting additional payment. The Carrier denied the request for additional payment. The expected out come [sic] of this issue is that we feel the claims should be paid in full. In accordance with DME Ground Rules Section IX c states invoices should be billed at the provider’s usual and customary rate. Reimbursement shall be an amount pre-negotiated between the provider and carrier or if no pre-negotiated amount, the fair and reasonable rate. We have billed the Carrier our usual and customary rate and have provided the Carrier with examples of audit sheets and/or copies of checks where other carriers in this area have established theses [sic] fees as a fair and reasonable amounts [sic] as the Commission has not established a MAR for these items.”

2. Respondent: Letter dated 07/16/02

“Respondent asserts it paid a fair and reasonable rate to the Requestor for the shoulder surgery. Respondent asserts that the Requestor should state the specific reasons it believe [sic] it is entitled, under the statutory standards, to specific amounts of additional reimbursements, including the formula or formulas it asserts are required for calculating the additional amount of reimbursements it is seeking. The burden lies upon the Requestor to demonstrate the amount of reimbursement it received from the Respondent was neither fair nor reasonable and was not in accordance with the requirements of the Texas Labor Code. The appropriate standards the Requestor must meet are clearly delineated in SOAH.... To date, the Requestor in these matters has failed to meet the requisite statutory standard. WHEREFORE, Respondent prays the Medical Review Division of the Texas Workers’ Compensation Commission decline to order additional reimbursement for the services made the basis of this dispute.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 05/17/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$112.30 for supplies provided on the date of service in dispute above.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$56.15 for supplies provided on the date of service in dispute above.
5. The Carrier’s EOB denies any reimbursement as “M-NO MAR, REDUCED TO FAIR & REASONABLE”.

6. Per the Requestor's Table of Disputed Services, the amount in dispute is \$56.15 for supplies provided on the date of service in dispute above.

V. RATIONALE

Medical Review Division's rationale:

Per Rule 133.304 (i), "When the insurance carrier pays a health care provider for treatment(s) and/or service(s) for which the Commission has not established a maximum allowable reimbursement, the insurance carrier shall:

1. develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement;
2. explain and document the method it used to calculate the rate of pay, and apply this method consistently;
3. reference its method in the claim file; and
4. explain and document in the claim file any deviation for an individual medical bill from its usual method in determining the rate of reimbursement."

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), "... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;".

The Medical Review Division has to determine, based on the parties' submission of information, which has provided the more persuasive evidence of fair and reasonable. As the Requestor, the health care provider has the burden to provide documentation that "...discusses, demonstrates, and justifies that the payment being sought is fair and reasonable rate of reimbursement...." pursuant to TWCC Rule 133.307 (3) (g) (D). The Requestor has attached example EOBs, which does provide some evidence. The Carrier has supplied no methodology.

The law or rules are not specific in the amount of evidence that has to be submitted for a determination of fair and reasonable. The Medical Review Division has reviewed the file to determine which party has provided the most persuasive evidence. The Requestor has submitted some evidence to support their position that the amount billed is fair and reasonable. Therefore, additional reimbursement in the amount of **\$56.15** is recommended.

REFERENCES: The Texas Workers' Compensation Act & Rules: Sec 413.011 (d); Rule 133.304 (i); Rule 133.307 (g) (3) (D); and (j) (1) (F).

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$56.15** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 14th day of February 2003.

Denise Terry
Medical Dispute Resolution Officer
Medical Review Division

DT/dt